

REMARKS

Claims 11, 12 and 14-18 are pending in this application. Claim 13 was previously canceled without prejudice or disclaimer. Reconsideration and allowance of all the claims are respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. § 103

Claims 11, 12, 14, 15 and 17 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,341,572 to Howell et al. (hereinafter 'Howell') in view of U.S. Patent Publication No. 2003/0226669 to Wagner et al. (hereinafter 'Wagner').

Claim 16 and 18 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Howell et al. in view of German Patent No. DE 19811851 A1 to Wagner et al. (hereinafter "DE '851").

For the following reasons, these rejections are respectfully traversed.

Response

In response to the arguments filed on November 5, 2009, the Examiner agrees that Howell is silent regarding the recitations previously added to claim 11. Nevertheless, the Examiner alleges that Wagner '669 teaches a failure safety margin and the recitation of lowering the control concentration to that of something much lower than the limit concentration. More specifically, the Examiner maintains that paragraphs [0027] and [0028] of Wagner teach a failure safety margin of 10% (referencing the disclosure of "especially advantageous is an oxygen content of the buffer volume of 10 percent by volume or less" in paragraph [0028]). The Examiner then references paragraph [0027] where it states that "a possible fire ... that an average oxygen concentration between 8 and 17 percent by volume occurs in the target area on account of the specified quantity

and concentration ratios of oxygen in both areas." The Examiner therefore concludes that Wagner teaches a concentration much lower than the limit concentration (GK) in 8 percent by volume.

In view of the Examiner's continued reliance on U.S. Patent Publication No. 2003/0226669, Applicant submits herewith a Rule 132 Declaration wherein he discusses the particular portions of his own prior U.S. Patent Publication No. 2003/0226669 (Wagner) cited by the Examiner and points out why the Examiner's interpretation of the reference's teachings is wrong. In particular, the Rule 132 Declaration discusses why Wagner '669 does not teach or suggest that the control concentration (RK) corresponds to the limit concentration (GK) less the failure safety margin (ASA) and a safety margin (S), such that the oxygen content in the protected area is reduced to the control concentration (RK) which is much lower than the limit concentration (GK), as recited in the present claim 11.

As has been previously emphasized to the Examiner, in the present invention, the oxygen content in the protected area is not only reduced to the limit concentration (GK), but is intentionally reduced to the control concentration (RK) which is much lower compared with the limit concentration (GK). As noted above, the control concentration (RK) corresponds to the limit concentration (GK) less a failure safety margin (ASA) and a safety margin (S). By intentionally reducing the oxygen content in the protected area to the control concentration (RK), which is much lower than the limit concentration (GK), the present invention effectively prevents the ignition or re-ignition of combustible materials in the protected area even in the event of a malfunction that affects the primary source.

As discussed in detail in the Rule 132 Declaration, there is no recognition in Wagner '669 of a failure safety margin ASA which is far below the design concentration. In other words, Wagner '669 says nothing about the safety margin below the 11 per cent full level of inertion

disclosed which is basically the design concentration corresponding to design concentration AK of the present invention.

More specifically, as described in the Rule 132 Declaration, according to the invention as disclosed in Wagner '669, it is necessary that the oxygen concentration in the area after having mixed the buffer gas volume with the ambient air of the area is lowered slightly below the re-ignition prevention level, i.e., the limit concentration GK of, for example, 13 per cent by volume. In particular, Mr. Wagner's invention as described in US 2003/0226669 A1 does not provide for lowering the oxygen content of the target area far below the re-ignition prevention level because this would be contrary to the aim of the invention as described in US 2003/0226669 A1, i.e., to provide an inert rendering method enabling the storage of extinguishing gas to extinguish a fire in a simple and economical manner.

Rather, during the fire prevention phase, the oxygen concentration is maintained at the full inertization level of, for example, 11 per cent by volume by temporarily supplying additional extinguishing gas provided by an inert gas generator denoted in Wagner '669 with reference numeral "80".

Hence, according to the invention as described in Wagner '669, during the fire prevention phase the oxygen concentration is maintained at a control concentration RK, wherein the upper threshold thereof corresponds to the design concentration AK of the area to be protected. The design concentration AK of the area is only slightly lower than the limit concentration GK (i.e., the re-ignition prevention level) because the invention as described in Wagner '669 does not take into account any procedure in case of a malfunction of the inert gas generator (80) which supplies the additional extinguishing gas necessary for maintaining the oxygen concentration at the full inertization level.

Based on the foregoing remarks, Applicant submits that independent Claim 11 is not taught or suggested by Howell and/or Wagner '669, and is therefore patentable. Applicant therefore requests removal of the rejections of the pending claims.

The dependent claims 12 and 14-18 are patentable for the reasons set forth above, as well as based on the recitations set forth therein.

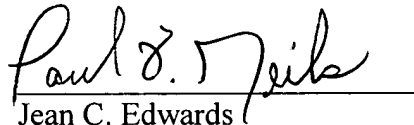
CONCLUSION

Reconsideration and withdrawal of all the pending rejections and allowance of the application are hereby solicited.

If the Examiner believes that there is any issue that could be resolved by a telephone or personal interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

Applicants hereby petition for any extension of time which may be required to maintain the pendency of this case, and any required fee for such an extension is to be charged to Deposit Account No. 50-0951. Applicants also hereby authorize the USPTO to charge Deposit Account No. 50-0951 for any excess claim fees necessitated by this amendment, and any other fees required to maintain the pendency of this application.

Respectfully submitted,



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Date: May 3, 2010